*THE HON'BLE SRI JUSTICE P.S. NARAYANA

+W.P. No. 15913 OF 2006

%Dated November 15, 2006

Life Insurance Corporation of India,
Rep. by its Senior Divisional Manager,
Divisional Office, College Road,
Kadapa, Kadapa District.

Petitioner

VERSUS

$ The Kadapa Municipal Corporation,
Rep. by its Commissioner,
Kadapa and another

Respondents

!Counsel for Petitioner: Mr. M.Venkata Ramana Reddy

Advocate

^Counsel for Respondents 1: Mr. S.I. Newton

S.C. for R-1

Counsel for Respondents 2: Govt. Pleader for Revenue

<GIST:

> HEAD NOTE:

? Cases referred
1. 2000(5) ALT 246 (D.B)

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE P.S. NARAYANA

W.P. No. 15913 OF 2006

Dated : November 15, 2006

Between:

Life Insurance Corporation of India,
Rep. by its Senior Divisional Manager,
Divisional Office, College Road,
Kadapa, Kadapa District.

Petitioner

AND

The Kadapa Municipal Corporation,
Rep. by its Commissioner,
Kadapa and another

Respondents

ORAL ORDER:

This court issued *rule nisi* on 23.10.2006. The

matter is coming up under the caption of *interlocutory*.

It is stated that counter affidavit was already filed. Learned counsel on record made a request to dispose of the writ petition finally.

The writ petition is filed with a prayer as follows:

> *"…to issue a writ, order or direction one in the nature of writ of mandamus declaring the action of the respondents in attempting to acquire the land to an extent of 1210 Sq. yards (25 cents) situated in Sy. No. 108(p) and 109(p) of Nagarajupalli (V) by demolishing the compound wall and a part of the building existing therein without following the procedure contemplated under the provisions of the Hyderabad Municipal Corporation Act, 1955 as arbitrary and illegal and consequently direct the respondents not to acquire the said land and not to demolish the compound wall and a part of the existing building of the petitioner till the 2nd respondent allots suitable land to the petitioner as requested by the 1st respondent by its letter Lr. Roc. No. 1578/G1/2006 dated 20.5.2006 and construction of compound wall at the cost of the 1st respondent in lieu of the demolished compound wall and pass such other order or orders, as the Hon'ble Court deems fit and proper in the interests of justice…"*

Mr. M.Venkata Ramana Reddy, learned counsel for the writ petitioner would submit that unless the respondents follow due process of law, they cannot further proceed with the demolition activity. The learned counsel places reliance on the decision of a Division

Bench of this Court in *Pilli Lakshmana Rao and others Vs. Executive Officer, Gram Panchayat, Challapalle and others* ([1]).

Sri S.I. Newton, the learned Standing Counsel for the first respondent had taken this court through the contents of the counter affidavit and would contend that in the facts and circumstances, the respondents are bound to follow due process of law.

It is stated in the affidavit filed in support of the writ petition that the petitioner Corporation had purchased an extent of Ac.13.96 cents of land in Nagarajupalli village of Kadapa town in the year 1974 and constructed its Divisional Office and 112 staff quarters for its Class I Officers, Class III and IV employees. It is also stated that the office has been rendering service to the policyholders of Kadapa, Kurnool and Ananthapur districts. It is stated that the petitioner – Corporation is trustee of the policyholders' money and it will pay back the amount as and when it is due and payable to the policyholders. It is also stated that the Government of Andhra Pradesh has upgraded Kadapa Municipality vide GO Ms. No.481 M.A. dated 13.11.2004 to Municipal Corporation and it is understood, to regulate the traffic, the Municipal Corporation of Kadapa, is

taking steps to widen the roads.

It is also stated that the petitioner was informed by the first respondent vide their letter Roc. No. 1578/G1/2006 dated 20.4.2006 that in the sanctioned Master Plan the existing road from Collector's Bungalow junction to Dr. B.R. Ambedkar Statue junction on I.T.I/R.S. road is proposed to be widened to 80' and a detailed survey was conducted on the proposed road and a portion of the land of the petitioner to an extent of 1347.21 Sq. Mts. (1610 Sq. Yds) in Sy. No.108(p) and 109(p) of Nagarajupalli village would be affected under road widening. It is further stated that the City Planner and his team visited the premises of the petitioner and conducted a detailed survey and came to a conclusion that an extent of 1210 Sq. yards would be sufficient to suit this purpose and accordingly, marked the required portion. It is specifically stated that by this act of road widening, the petitioner Corporation would be losing an extent of Ac.1210 Sq. yards (25 cents) along with the compound wall. In relation to the letter dated 20.4.2006 of the first respondent, it is further stated that the petitioner informed the 1st respondent by letter dated 5.5.2006 that the petitioner – Corporation would be able to hand over the proposed land for road widening either on payment of the present market value of the land and

constructing a compound wall or alienation of alternate land of same value, on cost to cost basis, and construction of compound wall at the cost of the 1st respondent in the place of demolished wall of the present premises. It is also stated that the petitioner Corporation made such request only to safeguard the interests of the policyholders and the organization but not to make any profit out of the transaction.

It is further stated that the first respondent addressed a letter Lr. Roc. No.1578/G1/2006 dated 20.5.2006 to the Mandal Revenue Officer, Kadapa, the second respondent, requesting him to alienate a suitable equivalent value of land in the city in favour of the petitioner in lieu of its site affected under road widening and inspite of requests, the respondents, till now, did not allot any land for construction of office building. It is also stated that a news item was published in a local newspaper on 17.6.2006 stating that the first respondent had floated tenders for construction of compound walls to Viduth Bhavan and the petitioner Corporation's building complex and even issued work orders to the contractors. It is also stated that the petitioner Corporation apprehends that the respondent may forcibly acquire the land and demolish the building

and compound wall of the petitioner – Corporation, at any time. It is further stated that the respondents without following the procedure as contemplated under Sec. 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 which is applicable to the first respondent Corporation and also in violation of the law laid down by this Court, are proceeding to demolish the building of the petitioner Corporation. In such circumstances, the petitioner approached this court praying for appropriate relief referred to supra. Several other factual details had been narrated in the affidavit, in support of the writ petition.

In the counter affidavit, filed by the first respondent it is stated that the petitioner's land measuring Ac. 13.96 cents in Sy. Nos. 107 (p) and 109/3 of Nagarajupalli was classified as tank poramboke and by G.O. Ms. No. 623 Revenue Department dated 29.6.1974, the said land was alienated in favour of Life Insurance Corporation of India on payment of Market Value for construction of their Divisional Office Building and for quarters for their employees, as per the conditions laid down in B.S.O. 24(6)(1), according to which, any part of the above alienated land can be resumed for public purpose.

It is also stated that the Kadapa Municipality was upgraded to Kadapa Municipal Corporation vide GO Ms. No.481 M.A. dated 13.11.2004. Earlier the Government of Andhra Pradesh in G.O. Ms. 1078 M.A. Dated 19.9.1981 has sanctioned General Town Planning (Master Plan) Scheme of Kadapa and as per the said sanctioned Master Plan, the existing Railway Station road from Collector's Bungalow Junction to RTC Bus Stand i.e. upto Dr. B.R. Ambedkar Statue Junction is proposed to be widened to 80' road and this is the only direct road linking the A.P.S.R.T.C. Bus Stand and Railway Station, having a length of 1.75 K.M. The Divisional Office of the petitioner's Corporation is situated on Northern side of the said road.

It is further stated that the Government of Andhra Pradesh by issuing G.O. Ms. No. 125 MA dated 17.3.2006 and GO Ms. No. 289 M.A. dated 6.5.2006, has merged adjoining eight gram panchayats viz., Chinna Chowk, Chemmumiah Peta, Akkaya Palli, Gudur, Patha Kadapa, Putlampalli, Ramaraju Palli and Palam Palli villages into Kadapa Municipal Corporation. After the said merger of surrounding panchayats, the area of the Kadapa Municipal Corporation has been increased from 6.84 Sq. Kms. To 99.18 Sq. Kms and the population of the Corporation has also been

increased from 1,26,505 to 2,67,764. It is also stated that along with the ever-increasing population, the problem of traffic has also been increased with the congested roads. To regulate the traffic, the Municipal Corporation has taken a decision for widening of all existing main roads within the Corporation as per the Sanctioned Master Plan and it includes the Railway Station Road from Collector's Bungalow Junction to Dr. B.R. Ambedkar Statue Junction at A.P.S.R.T.C. Bus Stand.

It is further stated in para 6 of the counter affidavit, as under:

> *"…Accordingly a detailed survey was conducted over the said road and prepared road alignment for the proposed road widening. As per Road Development Plan, the Municipal Corporation of Kadapa in its letter ROC No. 1578/G1/2006 dated 20.4.2006, has requested the Senior Divisional Manager, L.I.C. of India, Kadapa to handover the site measuring 1347.21 Sq. Mts. which is being effected under the said road widening. After receiving the said request from the Municipal Corporation, the petitioner herein, orally requested the Municipal Corporation, for joint inspection with their Technical Staff along with the Town Planning Staff of Municipal Corporation. As per the above request, a joint inspection with reference to the Road Development Plan and realignment of the said road was made without affecting the permanent structures of the petitioner's buildings. Thereby, the required extent of land was reduced from 1347.21 Sq. Mts. to*

1012 Sq. Mts. or 1210 Sq. Yards. The same was accepted and the said realignment of the road was confirmed and the petitioner Corporation also accepted to handover the open land for proposed road widening and requested the Municipal Corporation to construct the compound wall at the cost of Municipal Corporation. In the said road widening programme, all the other individual residents residing on either side of the said proposed road have voluntarily removed their permanent structures along with their compound walls and co-operated for the said road widening and its development for public purpose…"

It is further stated that so far as the compound walls of the petitioner Corporation as well as the A.P.S.P.D.C. Ltd., (Vidyuth Bhavan) are concerned, as per their request, the Municipal Corporation accepted to construct their compound walls at its own cost and the construction of compound wall for A.P.S.P.D.C. Ltd., (Vidyuth Bhavan) is under progress and partly completed.

In response to the letters dated 20.4.2006, in para No.8 of the counter affidavit, it is stated as under:

"…It is submitted that in response to the letter dated 20.4.2006, the petitioner in their letter dated 5.5.2006, requested this respondent Corporation for payment of compensation for the said land as per the market rate and the cost of the demolition and construction for the compound wall. Further they stated that if the payment of the compensation is not possible, they requested for alienation of alternate land of the same value…"

It is also stated that as per the letter of the petitioner dated 5.5.2006, the respondent Municipal Corporation requested the Mandal Revenue Officer, Kadapa through a letter dated 19.5.2006 to alienate a suitable equivalent land in the city in favour of the petitioner in lieu of the open land being affected under Master Plan road widening. In para No. 11 of the counter affidavit, it is further stated as under:

> *"… As per the Master Plan, the said road widening was taken up by the respondent Municipal Corporation for the convenience of the public at large and doing all other developmental activities incidental thereto. All the private individuals as well as the other public offices have already handed over their affected portions without claiming any compensation. Except the petitioner's premises, the remaining affected properties of public as well as Government were cleared and the construction of draining work on both sides of the road is under progress on par with the road widening. The petitioner Corporation, being a public office, should have come forward to handover the said affected open land in their premises without any objection even after a request was made to the concerned Mandal Revenue Officer to alienate a suitable equivalent land to the petitioner Corporation, in view of the above road widening. The said request of this respondent Corporation is under active consideration of the 2nd respondent…"*

Further specific stand was taken in the counter affidavit, in para 13, which reads as follows:

"…This respondent never forcibly acquired the open land of the petitioner which is required for the public purpose of road widening as per Sanctioned Master Plan said above. As admitted by the petitioner, this respondent Corporation has already requested the 2nd respondent in writing to alienate a suitable equivalent land to the petitioner and the same is under active consideration. The action of this respondent in making correspondence with the petitioner Corporation for the above said public purpose of road widening as per the Master Plan and taking steps as per the request of the petitioner Corporation for construction of their compound wall through tender process is not illegal or arbitrary as alleged by the petitioner herein…"

Reliance has been placed on a Division Bench Judgment of this Court in *Pilli Lakshmana Roa's case (surpa)*, wherein the Division Bench, in para 7, had observed as under:

"…When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hand and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanation, the authorities shall pass appropriate orders, if necessary, by giving oral hearing whenever there is a dispute as to the ownership of the property. In cases where

demolition has already taken place, the authorities that barring a few cases, in most of the cases which we came across and dealt with separately, no separate orders of eviction, dispossessions or demolition as the case may be, have been passed. In cases of demolition also, they were not preceded by any order or notice of demolition. The complaint of the occupants though looks misconceived but after hearing the arguments, we found that there was an attempt by the Government either to widen the roads or clear the encroachment. But in our view, before doing that, the authorities have to follow certain principles of natural justice. Hence, the writ petition is disposed of reserving liberty to the State to take action, if it so desires, after complying with the following requirements…"

In the facts and circumstances of the case, it is needless to say that before carrying on any further demolition activity, the first respondent is bound to follow the due process of law. It is no doubt true that there appears to be correspondence with regard to the allotment of alternate land. It is also pertinent to note that the writ petitioner is Life Insurance Corporation of India. In the light of the same, the second respondent also may consider the request of the petitioner relating to the allotment of alternate site in lieu of the property, which is being taken away, if the same is possible. This court, cannot express any further opinion relating to the said aspect. However, inasmuch as, the respondents are bound to follow due process of law, before taking up

further demolition activity, this court is of the considered view that the writ petition be disposed of directing the respondents not to resort to demolition activity in relation to the subject matter of writ petition unless and until, the respondents follow the procedure in accordance with law.

With the above direction, the writ petition is disposed of. No order as to costs.

P.S. NARAYANA, J.

November 15, 2006

L.R. Copy to be marked
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[1] 2000(5) ALT 246 (D.B.)